

THACHER PROFFITT & WOOD LLP  
50 Main Street  
White Plains, New York 10606  
Kevin J. Plunkett  
Darius P. Chafizadeh  
Andrew B. Zinman  
*Attorneys for Defendants*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

NIKOLA LUKAJ, JOSEPH POTENTE, and  
DIANA O'NEILL,

Plaintiffs,

-against-

PHILIP AMICONE, individually, EDMUND  
HARTNETT, individually, JOHN A. LISZEWSKI,  
individually, JOHN FLEMING, individually, DAVID  
SIMPSON, individually, LAWRENCE A. PORCARI,  
Jr., CITY OF YONKERS, New York, PAUL WOOD,  
individually, POLICE OFFICERS JOHN DOES #1 to  
#20, individually, and SANITATION WORKERS #1 to  
#20, individually,

Defendants.

ECF Case

07 Civ. 8184 (CLB)

**DECLARATION OF  
ANDREW B. ZINMAN IN  
SUPPORT OF MOTION TO  
DISMISS THE COMPLAINT  
AS AND AGAINST  
DEFENDANT LAWRENCE A.  
PORCARI, JR**

STATE OF NEW YORK                    )  
  ) ss.:  
COUNTY OF WESTCHESTER        )

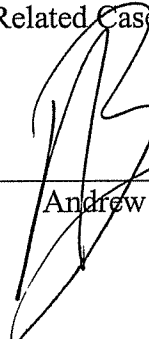
**ANDREW B. ZINMAN**, being duly sworn, states the following under penalty of perjury:

1. I am an associate with the law firm Thacher Proffitt & Wood LLP, attorneys for Defendants in the above-entitled action, and duly admitted to practice law in this Court.
2. I submit this declaration based upon information and belief, the source of which is a review of the documents that form the basis of this action.

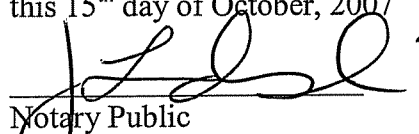
3. On September 26, 2007, Defendant Lawrence A. Porcari, Jr. ("Porcari") filed a motion to dismiss the complaint as and against him only in a related case (the "Related Case") before this Court and your Honor, bearing Docket Number 07 Civ. 7692 (CLB).

4. The facts surrounding the instant motion to dismiss and the Related Case are identical.

5. In order to not burden this court with another recitation of facts and an identical memorandum of law in support of Defendant Porcari's motion to dismiss the Complaint in the instant matter, the Court is respectfully referred to the Declaration of Andrew B. Zinman dated September 26, 2007 (a copy of which is annexed hereto as Exhibit A) and the Memorandum of Law dated September 26, 2007 (a copy of which is annexed hereto as Exhibit B), in support of Defendant Porcari's motion to dismiss the complaint in the Related Case.

  
\_\_\_\_\_  
Andrew B. Zinman

Sworn to before me  
this 15<sup>th</sup> day of October, 2007

  
\_\_\_\_\_  
Notary Public

**JOAN MARIE LEWANDOWSKI**  
**NOTARY PUBLIC**, State of New York  
**No. 01LE6112570**  
**Qualified in Westchester County**  
**Commission Expires July 6, 2008**